

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PATRICK MICHAEL LOPEZ,

Defendant-Appellant.

UNPUBLISHED

February 28, 2008

No. 272709

Saginaw Circuit Court

LC No. 05-026114-FH

Before: Whitbeck, P.J., and Jansen and Davis, JJ.

MEMORANDUM.

Defendant appeals as of right his jury-trial convictions of operating a motor vehicle while visibly impaired, third offense, MCL 257.625(3) and (11)(c), and operating a motor vehicle with a suspended license, MCL 257.904(1). He was sentenced to 60 months' probation, with the first 300 days to be served in jail. We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

Defendant argues that error occurred when the trial court ruled that he could not impeach a witness with evidence of the witness's past convictions of crimes not involving elements of dishonesty, false statement, or theft. Under the Michigan rules of evidence, a witness may be impeached with evidence of conviction of a crime only if the crime at issue "contained an element of dishonesty or false statement" or "contained an element of theft." MRE 609. It is true that the portion of MRE 609 that requires balancing should be more restrictively applied to defendant-witnesses than to other witnesses. See *People v Allen*, 429 Mich 558, 607-608; 420 NW2d 499 (1988). However, contrary to defendant's argument on appeal, the general provisions of MRE 609(a) apply equally to "witnesses called by the prosecution and nondefendant witnesses called by the defense in the same way they apply to defendants." *Id.* at 606-607.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Alton T. Davis